IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12787 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMUBHAI RATANJI & 1 - petitioners(s)
Versus
ADMINISTRATOR & 1 - Respondent(s)

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Appearance :
MR RR MARSHALL for petitioners Nos.1 and 2.
MR AD PANDYA FOR MR PRASHANT G DESAI for Respondent Nos.1 and 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 23/02/2007

ORAL JUDGMENT

1. Mr.R.R. Marshall, learned counsel for the petitioners and Mr.A.D. Pandya, learned counsel for the respondents.

2. Present petition came to be filed in the year 1993 seeking a relief that the petitioners be given vacant and peaceful possession of unencumbered Final Plot No.90. The very same petitioners, namely Ramubhai Ratanji and Chhimkabhai Khushalbhai, filed yet another petition being Special Civil Application No.20895 of 2005. In the said petition, they again prayed that the respondent Corporation be directed to hand over vacant possession of Final Plot No.90.

3. Mr.Pandya, learned counsel for the respondents has shown me copy of the later petition and the final order passed thereon. The later petition being Special Civil Application No.20895 of 2005 came up for hearing, Mr.Utpal Panchal, learned counsel appeared for the petitioners and Mr.Asthawadi, learned counsel appeared for the respondents. It was informed to the Court that the petitioners were handed over the possession of the land in question. In support of the submission, xerox copy of the Possession Receipt was filed which was taken on record. From the pleadings of Special Civil Application No.12787 of 1993 it does not appear that the petitioners made any mention about the present petition. It was a plain and simple fraud played by the petitioners.

However, as the order dtd.20/4/2006 passed in Special Civil Application No. 20895 of 2005 has attained finality, I will not interfere with it, but would dismiss the present petition. The petition deserves to and is accordingly dismissed with cost of Rs.10,000/- (Rupees Ten Thousand only). The amount of cost shall be paid by the petitioners to the respondents within a period of one month from today, failing which the respondents would be entitled to make an application for drawing contempt proceedings against the petitioners in this writ application.

(R.S. GARG, J.)

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